

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	8:08CR289
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
JEROME W. OSBERGER,)	
)	
Defendant.)	

This matter is before the court on a notice from the Clerk of Court of defendant's possible untimely appeal. Filing No. [150](#). The court has reviewed the notice and finds the amended notice of appeal,¹ Filing No. [149](#), will be sent to the Eighth Circuit Court of Appeals. This court entered a judgment against the defendant on July 10, 2009. Filing No. [131](#). On July 20, defendant filed his first notice of appeal which was docketed on July 21, 2009. Filing No. [136](#). Thereafter, the government filed a motion for a hearing on the restitution issue, and the court set a hearing on August 10, 2009. Filing Nos. [139](#) and 144. The court then ordered the disbursement of funds in accordance with the Judgment. Filing No. [147](#). Following the filing of this disbursement order, the defendant filed the amended or second notice of appeal. Filing No. [149](#). The defendant did this out of an abundance of caution to ensure he had adequately preserved all issues. *Id.* The court finds that the defendant timely filed his initial notice of appeal pursuant to Fed. R. App. P. 4(b) and then filed his amended or second notice of appeal. The Eighth Circuit will determine whether the amended or second notice of appeal is necessary and/or timely. Accordingly, the court finds the initial notice of appeal is timely and orders the Clerk of Court to process the appeal and to forward Filing No. [149](#) to the Eighth Circuit.

¹Because the defendant previously filed a notice of appeal, the Clerk of Court has designated this second notice of appeal as an amended notice of appeal.

THEREFORE, IT IS ORDERED that the Clerk of Court shall process this appeal and forward Filing No. [149](#) to the Eighth Circuit Court of Appeals.

DATED this 25th day of August, 2009.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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